

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace (with amendments to regulation 2) the Mental Health (Conflict of Interest) (Scotland) Regulations 2005 (S.S.I. 2005/262) which are revoked by these Regulations (regulation 6). The content of the Regulations is otherwise the same.

The Regulations provide for the circumstances where there is, or is not, to be taken to be a conflict of interest, and where such a conflict of interest is permitted, in relation to certain medical examinations carried out under the Mental Health (Care and Treatment) (Scotland) Act 2003.

Regulation 2 and the Schedule provide for the circumstances where there is to be taken to be a conflict of interest in relation to medical examinations to be carried out for the purpose of the granting of a short term detention certificate and an extension certificate.

Regulation 3 provides that the circumstances referred to in regulation 2 are not to be taken to cause a conflict of interest where delay in carrying out the examination would involve a serious risk to health, safety or welfare of the patient or to the safety of others.

Regulation 4 and the Schedule provide for the circumstances where there is to be taken to be a conflict of interest in relation to medical examinations carried out in connection with an application for a compulsory treatment order.

Regulation 5 provides that, notwithstanding a conflict in certain circumstances, the medical examinations may be carried out where delay would involve a serious risk to health, safety or welfare of the patient or to the safety of others.